

EXHIBIT C

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF HAWAII

5 WAYNE BERRY, a Hawaii citizen,) CV 03-00385 SOM-LEK
4)
5 Plaintiff,) Honolulu, Hawaii
4) January 30, 2006
6 vs.) 10:30 a.m.
4) Status Conference
7 HAWAII EXPRESS SERVICE,)
8 INC., a California)
8 corporation, et al.,)
9 Defendant.)

11 TRANSCRIPT OF PROCEEDINGS
12 BEFORE THE HONORABLE SUSAN OKI MOLLWAY
13 UNITED STATES DISTRICT JUDGE

13 APPEARANCES:

14 For the Plaintiff: TIMOTHY J. HOGAN, ESQ.
15 Lynch Ichida Thompson Kim & Hirota
1132 Bishop Street, Suite 1405
Honolulu, Hawaii 96813

16 For the Defendant, DAMIAN CAPOZZOLA, ESQ.
Post-Confirmation Kirkland & Ellis
17 Trust: 777 S. Figueroa Street, Suite 3700
Los Angeles, California 90017

18 -and-
19 LEX R. SMITH, ESQ.
Kobayashi Sugita & Goda

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Honolulu, Hawaii 96813

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For the Defendants, LYLE S. HOSODA, ESQ. (w)

22 Brian Christensen, RAINA P. MEAD, ESO.

et al.: Lyle S. Hosoda & Associates

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25 310-2420 1000-1100
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25 Proceedings recorded by machine shorthand, transcript produced with computer-aided transcription (CAT).

1 APPEARANCES, (Continued):

2 Official Court Reporter: Sharon Ross, CSR, RPR, CRR
3 United States District Court
300 Ala Moana Blvd., Room C-283
4 Honolulu, Hawaii 96850
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1 Court addressed.

2 THE COURT: No, I understand.

3 MR. HOGAN: And I don't have a problem with the
4 idea -- with having that happen.

10:41AM 5 THE COURT: No, I understand. They want a
6 preservation depo, not the discovery depo that I've already
7 said you folks can have for --

8 MR. HOGAN: Right.

9 THE COURT: -- supplemental opinions. So, I'm going
10 to allow these preservation depos on your side, too, because
11 when you folks lined up your experts, certainly you couldn't
12 have known, Mr. Hogan, that you were going to get lots of
13 documents given to you at the last minute. So, I'm going to
14 let people do these preservation depos.

10:41AM 15 How to do them -- I mean, have you folks even
16 discussed -- I mean, you know, before you come to me and ask me
17 to rule, can you folks try and work it out, please? Because
18 I'm getting the sense that you're springing this on Mr. Hogan
19 and asking me to make a ruling; but you never even met and
20 conferred with him about the method of this.

21 Go ahead and talk to him to see if you folks can work
22 this out. And then if there's a problem, you can get me on the
23 phone and we'll have a conference call. But see if you can
24 work it out because I'm thinking that he's probably going to
10:41AM 25 have things that he wants to do on his side, too. So, you

1 know, you folks better keep that in mind. And, you know, it's
2 not going to help anybody to play real hard ball here because
3 you're going to need the same thing.

4 MR. CAPOZZOLA: Sure. And this is all protective
10:42AM 5 anyway. Again, we're hoping that Mr. Kinrich can be here live.
6 And certainly to the extent the deposition is just a pure
7 discovery deposition, then the standard rules would apply; and
8 that would take place in Mr. Los Angeles and Mr. Hogan can
9 participate however he wants to.

10:42AM 10 THE COURT: Well, if it's just a discovery depo, he
11 probably doesn't feel like he needs to be physically present;
12 but if it's a perpetuation depo or preservation depo, you know,
13 I don't know how you folks are going to feel about that. I
14 mean, if one of your colleagues is physically present with the
10:42AM 15 witness, you know, an argument can be made that he wants to be
16 there, too. And so, where it should be -- well, see if you can
17 work it out.

18 For one thing -- I mean, I don't know whether in
19 his -- if he does a preservation depo, you know, is Mr. Kinrich
10:43AM 20 going to want to have, you know, blowups and other things where
21 it's going to be nearly impossible for someone who's not there
22 to really follow along? I just don't know the mechanics of
23 what it is you're proposing.

24 So, let me suggest that you talk to Mr. Hogan about
10:43AM 25 that; and if you can't reach an agreement, then you can get on

1 the phone with me.

2 MR. CAPOZZOLA: Those are fair points. Thank you.

3 THE COURT: Okay.

4 MR. HOGAN: Thank you, Your Honor.

10:43AM 5 THE COURT: Anything else?

6 MR. CAPOZZOLA: I think that's all that we had unless
7 Mr. Hosoda has --

8 MR. HOSODA: Just to apologize for my tardiness. I'm
9 sorry I came late.

10:43AM 10 THE COURT: I think an \$80,000 fine --

11 MR. HOSODA: I beg leniency, Your Honor.

12 THE COURT: Interest added for each second it's not
13 paid. Okay. Anything else?

14 MR. HOGAN: No, Your Honor. Thank you.

10:43AM 15 THE COURT: Oh, I thought it was more horrible. I
16 mean, it is more horrible because I think Mr. Hogan has lots of
17 issues which, you know, it may be fair for him to raise in
18 light of what's happened; but at least they're not issues I
19 have to decide today.

10:44AM 20 MR. HOGAN: That is correct, Your Honor.

21 THE COURT: So, that -- I thought it would be more
22 horrible. Okay. Thank you.

23 MR. CAPOZZOLA: Thank you.

24 MR. HOGAN: Thank you, Your Honor.

25 (Proceedings concluded at 10:44 a.m.)

1 COURT REPORTER'S CERTIFICATE

2 I, Sharon Ross, Official Court Reporter, United
3 States District Court, District of Hawaii, do hereby certify
4 that the foregoing is a correct transcript from the record of
5 proceedings in the above-entitled matter.

6 DATED at Honolulu, Hawaii, February 3, 2006.

7

8 /s/Sharon Ross

9 SHARON ROSS

10 CSR 432, RPR, CRR

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